HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.15942 of 2006

Date: 20th December, 2006

Between :-

Relli Municipal Retired and Private Workers Welfare Association, Nuzvid, rep. by its Secretary, Singampalli Hanumantha Rao .. Petitioner

And

The Commissioner, Nuzvid Municipality, Nuzvid, Krishna District and 2 others .. Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.15942 of 2006

ORDER:-

Relli Municipal Retired and Private Workers Welfare Association, Nuzvid represented by its Secretary filed the present Writ Petition for a Writ of Mandamus declaring the tender notice issued by the respondent in Roc.No.1083/2006-F1 dated 17-7-2006 as illegal, irregular, arbitrary and violative of provisions of G.O.Ms.No.581 MA dated 06-11-1996 and G.O.Ms.30 MA dated 18-1-2000 issued by the Government of Andhra Pradesh and offends articles 14 and 21 of Constitution of India and consequently direct the respondents to grant item No.1 of the works notified therein to the members of petitioner's society without resorting to tender system and following G.O.Ms.No.30 MA dated 18-1-2000 and pass such other suitable orders.

2. Respondent No.2 was impleaded as per the Court order dated 25-8-2006 in W.P.M.P No.20611 of 2006 and Respondent No.3 was impleaded as per the orders dated 26-9-2006 in W.P.M.P.No.24168 of 2006.

3. *Notice before admission* was ordered on 31-7-2006 and interim stay for a period of three weeks had been granted and the same was being extended. On 1-9-2006 *rule nisi* was issued and interim stay already granted was

extended until further orders.

4. In W.V.M.P.No.1577 of 2006 filed by the 2nd respondent, on 26-9-2006 the following modified order was made:-

> *"Heard the counsel.*
>
> *The vacate application is field to vacate the interim order made in writ petition No.15942 of 2006 dated 31-7-2006 and pass such other suitable orders.*
>
> *It is stated by the vacate petitioner-M/s.Ushodaya DWCRA Group that its registration number is 393/2002. It is also stated that the Government of Andhra Pradesh to rehabilitate the unemployed women and for self protection, certain schemes were introduced and for effective implementation of those schemes, guidelines were also issued for the benefit of the women particularly. It is also stated that as per the provisions of G.O.Ms.No.581 MA dated 06-11-1996, the sanitation works like sweeping and cleaning of drains and garbage, shall be given to the Societies that were framed among the children of the workers of the Municipalities and Gram Panchyats and other unemployed women of that particular areas. However, in supersession of the G.O.Ms.No.581, G..Ms.No.30 MA dated 18-1-2000 was issued wherein a relaxation was given to the Societies from participating in the tenders for a portion of the works that would be entrusted by way of public tenders. It is also stated that the respondent municipality issued tender notification on 17-7-2006 inviting sealed tenders of sanitation work among the existing societies in respect of item No.1 of the tender notice. It is also stated that as far as item No.2 is concerned, the tender notification is related to DWACRA Groups.*

Specific stand was taken that as far as the writ petition is concerned, the impugned tender notice. Several other factual details also had been narrated in the affidavit filed in support of the vacate application.

In view of the specific stand taken in the affidavit filed in support of the vacate application and also in the light of the stand taken by the counsel for the writ petitioner that the writ petitioner is not concerned with item No.2 of the impugned tender notice but concerned with item No.1, the interim stay already granted is hereby modified confining the order to item No.1 of the impugned tender notice only. It is needless to say that the interim stay already granted so far as item No.2 of the impugned tender notice is concerned, the same is hereby vacated since DWACRA Group alone is concerned with the said item No.2 of the impugned tender notice.

The order is modified accordingly."

5. Subsequent thereto, the 3rd respondent, who came on record as already referred to supra, filed W.V.M.P.No.1834/2006 praying for vacation of the interim order and also to dismiss the Writ Petition with exemplary costs.

6. Sri Nimmagadda Satyanarayana, the learned Counsel representing the writ petitioner had taken this Court through G.O.Ms.No. 581 M.A., Dt.6-11-1996 and G.O.Ms.No. 30 M.A., dt.18-1-2000 and would contend that in the light of the same, the first respondent is bound to follow the said G.Os., and hence, the Writ Petition to be allowed. The learned Counsel, no doubt, made it clear

that the present controversy is in relation to the item No.1 only since the interim stay in relation to item No.2 already had been vacated since DWCRA group is concerned with item No.2 by order dt.26-9-2006.

7. Sri Nageshwar Reddy, the learned Standing Counsel representing the first respondent while making elaborate submissions would maintain that it is true that the petitioner is a registered society under A.P.Societies Registration Act, 2001, but however, it is stated that 2 items of works had been notified, no doubt, item No.1 is reserved for societies and item No.2 is reserved for DWCUA groups. Further, the learned standing Counsel would submit that when there is only one society, the issue of allotment of sanitation work under item No.1 in favour of such societies can be considered but there are some other Relli societies registered under the Act whose members are also public health workers, their children, S.Cs and S.Ts and hence tenders were called for in relation to item No.1 of the work.

8. Smt. Revathi, the learned Counsel representing the 3rd respondent would submit that in the light of the stand taken in the counter affidavit filed in support of the vacate application, inasmuch as several facts had been suppressed by the writ petitioner, especially in the light of the stand taken by the first respondent – Municipality, the

Writ Petition deserves dismissal with exemplary costs.

9. Before further proceeding with the respective stands taken by the parties, it may be appropriate to have a look at the relevant G.Os., - G.O.Ms.No. 581 M.A., dt.6-11-1996 and also G.O.Ms.No. 30 M.A., dt.18-1-2000 and the said G.Os., read as hereunder:-

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

ESTABLISHMENT – Municipal Corporation/ Municipalities – Public Health and Non-Public Health Workers – Formation of societies by the retired Public Health Workers/their children/Badili workers – Orders – Issued.

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Corporations to the societies formed with the retired Public Health Workers or their dependents and Badili workers with the following modalities.

1. *The Societies should be registered under Societies Registration Act.*
2. *the Members should belong to retired Public Health Workers their children/and other Scheduled Caste/Scheduled Tribe Community people having experience of sanitation work as such Badili workers.*
3. *the Municipalities should prepare estimates, which should include to estimated requirement of man power for sweeping drain cleaning and garbage collection apart from supervision and list of hiring vehicles bringing the conservancy articles and is infactants etc., the number of trips and the distance involved, the designated place of dumpting of garbage should also be worked on. The usual procedure of inviting tenders as the tender rules should be followed. A model is shown as Annexure I.*
4. *The Society should participate in the tenders called for by the Municipalities/Municipal Corporations and willing to take up the work at the lowest tender rates.*
5. *A model estimates is shown as Annexure-II. The rates to be adopted should not exceed those existed in 1995-96. The recommended maximum rates for the subsequent years will be as fixed by the Special Commissioner and Director of Municipal Administration from time to time.*
6. *It is also considered that the fixation of rates for sweeping and drain cleaning, garbage collection, supervision and cost of hiring vehicles etc., depends on the local conditions and availability of men and material. The special Commissioner and Director of Municipal Administration will fix the maximum rtes on the above works.*
7. *The Special Commissioner and Director of Municipal Administration and Commissioners of Municipal Corporations/Municipalities in the State are requested to take necessary action on the above lines.*

(BY ORDER AND IN THE NAME OF THE GOVERNOR

OF ANDHRA PRADESH)

Sd/-

C.ARJUNA RAO

PRINCIPAL SECRETARY TO GOVERNMENT

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GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

ESTABLISHMENT – Municipalities – Municipal Corporation – Entrustmentr of a portion of sanitation work to the Societies formed by the Sanitary workers Unions without participating in the Tenders – Orders – Issued.

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G.O.Ms.No.30 M.A., Dated 18th Jan., 2000

1. Agreement dated 24-10-1996 between A.P. Municipal and Panchayat Workers Federation, Guntur and Government.

2. G.O.Ms.No. 581 M.A., dt. 6-11-1996

3. From the Joint Action Committee of Employees Teachers and Workers Andhra Pradesh Representation to Government dt.12-5-1999.

ORDER:

The A.P. Municipal and Panchayat workers Federation, Guntur have requested to amend the G.O. second read above. For entrusting the special sanitation work in Municipalities/ Municipal Corporations to the Societies by PH workers children/Badili Workers.

1. *Government have examined the demand of the A.P. Municipal and Panchayat Workers Federation for entrustment of the sanitation work to the Societies and DWCUA groups formed by the workers union by relaxing the condition of participating in tenders on the ground that they are expertised and well experienced in the sanitation works.*
2. *Government after careful consideration of the matter hereby direct to entrust a portion of the sanitation work to the societies formed by the*

Sanitary workers Union without participating in the tenders with view to improve the efficiency in sanitation with the other modalities indicated in the G.O., second read above.

3. The Commissioner and Director of Municipal Administration and all the Commissioner of Municipalities and Municipal Corporations in the State are requested to take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Sd/-

N.S.HARIHARAN

PRINCIPAL SECRETARY TO GOVERNMENT

10. It is stated that the petitioner is a Society registered under the provisions of the Andhra Pradesh Societies Registration Act 2001 on the rolls of Registrar of Society, Vijayawada with registered No.480/2004, dt.9-9-2004. It is also stated that there are 24 members in the said society and all the members are belonged to the families of retired Public Health Workers and to Scheduled Caste and Scheduled Tribe communities, having experience in sanitation work. It is also stated that since their forefathers, the family members of the petitioner's society have been eking out their livelihood by sanitation and scavenging work and they are well experienced in such work and the first respondent recognized the same and granted a part of sanitation work to the petitioner society on 1-10-2004 without resorting to tender system. It is also stated that the members of the petitioner society have

been executing the sanitation work since 1-10-2004 till date to the satisfaction of the first respondent and public at large. It is also further stated that on 17-7-2006 the first respondent issued a tender notice in R.O.C.No.1083/2006-F1 thereby inviting sealed tenders for sanitation work for the year 2006-2007 i.e., for the period commencing from 1-9-2006 to 31-3-2007. It is also stated that the respondent notified work in 2 items – the 1st item of work is reserved for societies and 2nd item for Dwakra Groups, and the last date for submitting tender forms is fixed as 2-8-2006 and the tender applications to be opened on 3-8-2006. It is further stated that aggrieved by the said tender notice, the petitioner approached the first respondent with a request to drop the same and grant item No.1 of the works notified therein to the petitioner society without resorting to tender system. The respondent refused to entertain the said request. G.O.Ms.No.581, MA, dt.6-11-1996 and G.O.Ms.No. 30, MA, dt.18-1-2000 had been referred to and in view of the same, specific stand is taken that the action of the first respondent in resorting to the calling for tenders in relation to item No.1 of the works notified cannot be sustained especially in the light of G.O.s referred to supra.

11. In the instructions placed by the first respondent though substantially several facts had been admitted,

specific stand had been taken that some more societies, similarly placed, like the petitioner being available, automatically the same cannot be allotted in favour of the petitioner and in such circumstances, the first respondent had acted only in accordance with the G.Os., referred to supra, taking into consideration all the facts.

12. The 3rd respondent had taken a specific stand that Valmiki Relli Samkshema Yuvajana Sangham is a registered society having registration No.392/2002 and established for the purpose of Municipal work with experienced persons and continuing to do the same. It is also stated that the society in question had undertaken the sanitation work of Government Hospital in the year 2003 and continued the same till March 2006 and got appreciation for the perfection of the work. It is further stated that the first respondent in the Writ Petition issued tender notice R.O.C.No.1083/2006-F1, dt.17-7-2006 inviting the competent societies to conduct sanitation work in the local area and the 3rd respondent also submitted tender form well within the time along with other participants. It is also stated that the writ petitioner participated in the tender dt.20-9-2004 and obtained sanction from 1-10-2004 to 31-3-2005 and continued work and after completition of the tender schedule period, the writ petitioner society got the extension orders and

continuing the work there. Several other factual details had been narrated. It is stated that the writ petitioner approached this Court by filing W.P.No.15942/2006 and obtained interim stay. Specific stand is taken that the said interim order was obtained by the writ petitioner suppressing the true facts that the members of the other societies also belong to the families of the Retired Public Health Workers and belonged to Scheduled Caste and Scheduled Tribe communities having much experience in sanitation work and even if the very spirit of the G.Os., to be taken into consideration, the action of the first respondent in the Writ Petition cannot be found fault. Specific stand is taken that the 3rd respondent society was formed by the children of the retired employees belonged to Scheduled Caste and Scheduled Tribe community and all the members are in the sanitation work from years together and the society was registered in the year 2002 much earlier to the petitioner society and they are engaging the same work. Several other factual details also are narrated.

13. Certain submissions were made that the genuineness or otherwise of these contesting societies before this Court cannot be gone into by the Writ Court. In the light of the respective pleadings put in by the parties before this Court, this Court is of the considered opinion

that even if the G.Os., referred to supra to be taken into consideration, the action impugned in the Writ Petition cannot be found fault. But however inasmuch as certain questions relating to the *bona fides* of the societies are being raised, it is needless to say that the first respondent may have to verify the *bona fides* of these societies – the petitioner as well as the 3rd respondent or other participants, who may be participating in relation to the tender already issued and further proceed with the matter in accordance with law.

14. With the above observation, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

20th December, 2006

Note: CC in three days

(B/o.mrb/smr)